

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CWP.No.3308 of 1988

DATE OF ORDER: 25.1.2007

Arjan Dev Gupta etc

...Petitioner(s)

Versus

State of Haryana etc

....Respondent(s)

CORUM : HON'BLE MR. JUSTICE M.M. AGGARWAL

.*.*.*.

Present: Mr. Sudhir Mittal, Advocate.

Mr. Jitender Chauhan, Addl.A.G, Haryana.

Mr. V.K. Vashishta, Advocate for Housing Board.

M.M. AGGARWAL,J

Petitioners were allotted plots No.42 and 43 under MIG Housing Scheme in the Housing Colony set up by respondent No.2 Housing Board Haryana at Sonapat. These were corner plots.

According to the petitioners, they made extra payment because plots were corner plots. There were some adjacent open space lying outside the corner plots and then respondent No.2 had made a policy to sell those adjacent open space to the allottees of respective corner plots at the rate of 160 per sq yard. Petitioners had made request that open space be allotted

but the same was not done. Action of the respondents was not in accordance with law and its own policy instructions on the subject and therefore present writ petition was filed.

On behalf of respondent No.2, the facts had been admitted but it was pleaded that the case of the petitioner was not considered for allotment of open space because the same fell on the main road i.e Murthal road and the same was proposed to be utilized for public utility purposes. It was found that the case was not technically feasible and as such open space was not allotted.

At the time of arguments, counsel for the petitioner made statement that the petitioner shall be using the open space, if allotted to them adjacent to their houses towards the road only for maintenance and cleanliness etc. They will not even open door towards that side.

From the perusal of the site plan, it would come out that the murthal road is going by the side of Plot No.42-43. When measurement of the open space were asked from respondent No.2 then respondent filed detailed map showing that there is no space at the end of corner of plot No.42 and Murthal road is oblique. Plots are rectangles in shape whereas murthal road goes by the side of the plots. At the end of plot No.42, there is no space available whereas at the other end of Plot, 17' 6" space is available. As far as Plot No.43 is concerned, there is 17' 6" space one side and 33' on the other side. The area of open space by the side of Plot No.42, which is triangular was 62 sq. yards whereas by the side of Plot No.43 it will be 193 yards. From the perusal of the site plan, it comes out that since the road is oblique there will be no scope of widening of this murthal road specially by the side of plots No.42 and 43. The area by the

side of these plots towards the road shall have to be an open space for all times.

Since petitioners have undertaken not to use this area for any other purpose except for maintaining the same. This will be in interest of all concerned that this land (open space) is allotted to the petitioners on payment of rates as originally fixed.

Under these circumstances, this petition is allowed with no order to costs.

January 25, 2007
manoj

(M.M. AGGARWAL)
JUDGE